

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Leon M. Whitener,)
Plaintiff,) C/A No.: 4:16-1437-MBS-TER
vs.)
Carolyn W. Colvin, Acting Commissioner)
of Social Security,)
Defendant.)

)

OPINION AND ORDER

On August 12, 2009, Plaintiff Leon M. Whitener protectively filed an application for disability insurance benefits, alleging disability commencing August 1, 2009. His application was denied initially and upon reconsideration. Plaintiff requested a hearing before an administrative law judge (“ALJ”). The ALJ held a hearing on May 19, 2011. On June 10, 2011, the ALJ issued a decision denying Plaintiff’s application. On February 19, 2013, the Appeals Council determined that there was no basis for granting Plaintiff’s request for review. On April 19, 2013, Plaintiff brought an action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the “final decision” of the Commissioner. The court issued an order of remand on September 3, 2014. See Whitener v. Colvin, 4:13-CV-1060-JFA. A second ALJ denied Plaintiff’s claim for benefits on May 22, 2015. On April 4, 2016, the Appeals Council denied Plaintiff’s request for review. Plaintiff filed the within action on May 4, 2016.

On December 9, 2016, the Commissioner filed a motion to remand pursuant to sentence four of 42 U.S.C. § 405(g). The Commissioner indicates that further administrative action is warranted so than an ALJ may further evaluate the record regarding Plaintiff’s mental functional limitations. Plaintiff consents to remand. Accordingly,

The Commissioner’s motion to remand (ECF No. 22) is **granted**. It is ORDERED that the

Commissioner's decision be reversed and the case be remanded pursuant to sentence four of § 405(g) for further administrative proceedings as set forth herein and in the Commissioner's motion.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

Senior United States District Judge

Columbia, South Carolina

December 9, 2016